

Under the Retailers' Occupation Tax Act the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

February 4, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated December 18, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our agency is working with COMPANY to select a site for the development of a new facility. The facility will fall under the 3999 SIC Code and the production process of a Soybean Production Plant is as follows:

Farmers in the area near a production plant contract to grow COMPANY brand soybean seed. The seed crop is harvested at optimum moisture, as designated by the production plant, to ensure the best possible seed quality. COMPANY's soybean production facilities subject the soybeans grown by the growers to a series of processes that transform the harvested seed into a product that is saleable as a viable commercial seed product for farmers.

The production plants process a number of different 'varieties' of soybean seed - some that include specific biotechnology traits. Each of these specific varieties must be segregated during the conditioning process in order to preserve their identity as separate commercial products. The seed also must be cleaned and sized in order to work with customer's plate-type and plate-less planters. Finally, the processed soybeans undergo a series of tests and sampling throughout the conditioning operation. For example, both warm and cold germination tests are conducted on the seed to ensure government-regulated quality standards.

COMPANY uses the most modern equipment available to ensure that handling of seed at each step during the conditioning process - from unloading through bagging - maintains product quality. Some of the steps included in the conditioning process include:

1) Weighting/Pre-Cleaning: Each load of soybean seed arriving at the plant is weighed, sampled and its quality inspected and recorded. The seed is then unloaded and moved through a pre-cleaning system, which removes hulls, pods and stems from the soybeans. This step helps ensure proper storage, as well as more efficient cleaning during conditioning.

2) Seed is then moved from the pre-cleaner stage to large storage bins. Belt conveyors and let-down ladders are used to move the seed to minimize seed damage.

3) Cleaning: The air screen cleaner, with a capacity of up to 500 bushels per hour, is used for the first phase of conditioning. The combination of air and different sized screens removes remaining pods, trash and small see.

4) Next, seed passes through spiral separators, which sort out and discard oblong seed, corn, and split soybeans (using centrifugal force). The seed is then gently scooped up by a special slow-speed elevator to gravity separators, which remove lighter-weight material from good seed by specific gravity analysis. From the gravity separators, seed is moved by conveyor into holding bins equipped with easy let-down ladders.

5) Bagging: Bagging operations include an automatic scale that accurately weighs and fills up to 20 bags per minute. Bags are tagged, sewn shut, then stacked 66 per pallet, wrapped with plastic covering and stored in the warehouse for shipping.

The seed, during processing and after bagging, undergoes a series of tests and sampling to test the seed against a number of criteria, including warm and cold germination tests.

Please give us a ruling as to whether the machinery and equipment for this project fall under a tax exempt status.

Under the Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330, enclosed.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form or name. These changes must result from the process in question and be substantial and significant.

"Machinery" means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process. See Section 130.330(c)(2). "Equipment" includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process.

See Section 130.330(c)(3). The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation. See Section 130.330(c)(3).

As you will note at Section 130.330, the exemption does not include items such as supplies, coolants, lubricants, adhesives, solvents, items of personal apparel, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. Hand tools do not qualify for the exemption. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

The use of machinery and equipment to convey, handle, or transport tangible personal property to be sold within production stations on production lines or directly between such production stations or buildings within the same plant qualifies for the manufacturing machinery and equipment exemption. See Section 130.330(d)(3)(D). However, the exemption does not extend to machinery or equipment used to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle nor to store, convey, handle or transport finished tangible personal property after the completion of the production cycle. For example, it is generally only when forklifts are used primarily to take materials between production stations that the exemption will apply.

Packaging equipment may qualify for the manufacturing machinery and equipment exemption if it is used in an activity covered by 86 Ill. Adm. Code 130.330(d), enclosed. Please note that if packaging equipment is used as part of an integrated manufacturing process, it will qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.